

AMENDED IN SENATE APRIL 17, 2006

SENATE BILL

No. 1198

Introduced by Senator Florez

January 24, 2006

An act to ~~add Section 19961.07 to~~ *amend Section 19960 of the Business and Professions Code, relating to gambling.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1198, as amended, Florez. Local gambling.

Existing law permits a city, county, or city and county to permit controlled gambling, consistent with state law, if a majority of voters affirmatively approve an ordinance so permitting, as specified. Existing law ~~provides~~ *requires* that ~~an amendment of an ordinance a measure~~ permitting an expansion of gambling, ~~within a specified threshold, may occur without voter approval. Any amendment to a city or county ordinance relating to gambling establishments or the Gambling Control Act is required to be submitted to the Division of Gambling Control for review and comment before the ordinance is adopted by the city or county and appearing on the sample ballot, set forth the hours of operation, the games to be played, the wagering limits, and the maximum number of gambling establishments and number of tables to be permitted in each establishment.~~

This bill would ~~provide that a city, county, or city and county that duly amended its gaming ordinance before January 1, 2002, to increase wagering limits, which, subsequently, did not comply with specified provisions, may reamend the ordinance without voter approval delete the requirement that the sample ballot set forth the wagering limits of a proposed gambling establishment. The bill would~~

also set forth specified findings and declarations with regard to local gambling and the Gambling Control Act.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature finds and declares all of the*
2 *following:*
3 *(a) On October 11, 1997, Chapter 867 of the Statutes of 1997*
4 *(hereafter Chapter 867) was filed with the Secretary of State.*
5 *This measure, known as the Gambling Control Act, was intended*
6 *to provide strict, statewide regulation of gambling establishments*
7 *in the State of California. Among the measures included in*
8 *Chapter 867 was a repeal of Section 19851 of the Business and*
9 *Professions Code. In pertinent part, subdivision (a) of this former*
10 *section required that the Division of Gambling Control shall*
11 *deny a gambling license to any gambling establishment that is*
12 *situated in a city or county that did not have an ordinance*
13 *governing the following matters:*
14 *(1) The hours of operation of gambling establishments.*
15 *(2) Patron security and safety in and around the gambling*
16 *establishments.*
17 *(3) The location of gambling establishments.*
18 *(4) Wagering limits in gambling establishments.*
19 *(5) The number of gambling tables in each gambling*
20 *establishment and in the jurisdiction.*
21 *(b) This section further provided that if a city or county did*
22 *have an ordinance that governed the matters specified in*
23 *subdivision (a), any amendment to the ordinance to govern those*
24 *matters would not be subject to Section 19950.1 of the Business*
25 *and Professions Code.*
26 *(c) The subject, and some of the provisions, of former Section*
27 *19950.1 of the Business and Professions Code was renumbered*
28 *as Section 19961 of the Business and Professions Code, and in*
29 *pertinent part, that section provides that any amendment of a*
30 *gambling ordinance to expand gambling by more than 24.99*
31 *percent must be submitted to the voters for a vote by the*
32 *electorate. Section 19961 of the Business and Professions Code*
33 *lists the same factors as enumerated in former Section 19851 of*

1 *the Business and Professions Code. It was clearly the intent of*
 2 *former Section 19851 of the Business and Professions Code and*
 3 *the Gambling Control Act, to have ordinances that were explicit*
 4 *and definite in covering each one of the factors listed therein, so*
 5 *that in the future it would be possible to determine if there had*
 6 *been an expansion of gambling as provided for in Section 19961*
 7 *of the Business and Professions Code.*

8 *(d) In order to come into compliance with the Gambling*
 9 *Control Act, numerous cities and counties amended their local*
 10 *ordinances to adequately address the factors set forth in former*
 11 *Section 19851 of the Business and Professions Code. The*
 12 *Division of Gambling Control and the Gambling Control*
 13 *Commission in years subsequent to 1997, and to the present time,*
 14 *have evaluated numerous local ordinances to make certain that*
 15 *they are in compliance with former Section 19851 of the Business*
 16 *and Professions Code and its successor, Section 19861 of the*
 17 *Business and Professions Code.*

18 *(e) Subsequent to 1998, Section 19961 was added to the*
 19 *Gambling Control Act. This section, in pertinent part*
 20 *subdivisions (b) and (c), provides, “(b) An ordinance in effect on*
 21 *January 1, 1996, that authorizes legal gambling within the city,*
 22 *county, or city and county, may not be amended to expand*
 23 *gaming in that jurisdiction beyond that permitted on January 1,*
 24 *1996. (c) This section shall remain operative only until January*
 25 *1, 2010, and as of that date is repealed.”*

26 *(f) Section 19962 of the Business and Professions Code thus*
 27 *precludes a city or county from conducting an election to amend*
 28 *the local ordinance to expand gambling beyond that permitted in*
 29 *1996. The provisions of former Section 19851 of the Business*
 30 *and Professions Code have been recast in Section 19861 of the*
 31 *Business and Professions Code, and subdivision (b), which*
 32 *permitted an ordinance to be amended to add one of the factors*
 33 *specified in former Section 19851 of the Business and*
 34 *Professions Code, has now been deleted in Section 19861 of the*
 35 *Business and Professions Code.*

36 *(g) However, the Division of Gambling Control has conducted*
 37 *a recent review of all local ordinances relating to the issue of*
 38 *wagering limit, and has found that there are 30 or more*
 39 *gambling establishments in this state that are currently operating*
 40 *under the authority of an ordinance that is not compliant with the*

1 *current Section 19861 of the Business and Professions Code.*
2 *These ordinances are deficient because either they do not*
3 *provide for a wagering limit, or the city council or board of*
4 *supervisors has delegated to the card club or the card club*
5 *owner, the ability to establish wagering limits and to change*
6 *those wagering limits. This certainly violates the spirit and intent*
7 *of the Gambling Control Act and the provisions of former Section*
8 *19851 of the Business and Professions Code as originally set*
9 *forth in the Gambling Control Act. Thus, in order to clarify the*
10 *law, amendments to Sections 19861, 19961, and 19962 are*
11 *necessary.*

12 *SEC. 2. Section 19960 of the Business and Professions Code*
13 *is amended to read:*

14 19960. This chapter shall not prohibit the enactment,
15 amendment, or enforcement of any ordinance by any city,
16 county, or city and county relating to licensed gambling
17 establishments that is not inconsistent with this chapter. No city,
18 county, or city and county shall issue a gambling license with
19 respect to any gambling establishment unless one of the
20 following is true:

21 (a) The gambling establishment is located in a city, county, or
22 city and county wherein, after January 1, 1984, an ordinance was
23 adopted by the electors of the city, county, or city and county, in
24 an election conducted pursuant to former Section 19819 of the
25 Business and Professions Code, as that section read immediately
26 before its repeal by the act that enacted this chapter.

27 (b) The gambling establishment is located in a city, county, or
28 city and county wherein, prior to January 1, 1984, there was in
29 effect an ordinance that expressly authorized the operation of one
30 or more cardrooms.

31 (c) After the effective date of this chapter, a majority of the
32 electors voting thereon affirmatively approve a measure
33 permitting controlled gambling within that city, county, or city
34 and county.

35 (1) The measure to permit controlled gambling shall appear on
36 the ballot in substantially the following form:

37 “Shall licensed gambling establishments in which any controlled
38 games permitted by law, such as draw poker, low-ball poker,
39 panguine (pan), seven-card stud, or other lawful card games or
40 tile games, are played, be allowed in ____? Yes ____ No ____.”

1 (2) In addition, the initial implementing ordinances shall be
2 drafted and appear in full on the sample ballot and shall set forth
3 at least all of the following:

4 (A) The hours of operation.

5 (B) The games to be played.

6 (C) ~~The wagering limits.~~

7 ~~(D) The maximum number of gambling establishments~~
8 ~~permitted by the ordinance.~~

9 ~~(E)~~

10 (D) The maximum number of tables permitted in each
11 gambling establishment.

12 (d) The authorization of subdivision (c) is subject to Sections
13 19962 and 19963 until those sections are repealed.

14 ~~SECTION 1. Section 19961.07 is added to the Business and~~
15 ~~Professions Code, to read:~~

16 ~~19961.07. Notwithstanding Sections 19961 and 19962, any~~
17 ~~city, county, or city and county that duly amended its gaming~~
18 ~~ordinance prior to January 1, 2002, to increase the wagering~~
19 ~~limits, and has been informed by the division that the ordinance~~
20 ~~amendments do not comply with Sections 19961 and 19962, may~~
21 ~~amend its ordinance to increase the wagering limits, as provided~~
22 ~~for in the earlier amendment.~~